

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

KATHRYN COX, et al.,

Plaintiffs,

v.

CONTINENTAL CASUALTY COMPANY,

Defendant.

NO. 2:13-CV-02288-MJP

[PROPOSED] FINDINGS OF FACT  
AND CONCLUSIONS OF LAW ON  
PLAINTIFFS' MOTION FOR FEES

Under FRCP 54(d)(2), Plaintiffs have moved for an award of attorney fees. The court makes the following findings of fact and states its conclusions of law in granting the motion:

**Findings of Fact**

1. Plaintiffs Kathryn Cox, et al. request an award of attorney fees under the Washington Consumer Protection Act ("CPA") (RCW 19.86.090). Plaintiffs are entitled to recover their fees under the CPA because the jury returned a verdict in their favor on their CPA claim and they are therefore the prevailing party under the CPA.

2. The Court has carefully reviewed the declarations of Plaintiffs' counsel and the detailed attorney billing records of Plaintiffs' counsel that were filed under seal with the Court. Continental did not provide its own attorney billing records for comparison.



1 hourly rates. *Bowers v. Transamerica Title Ins. Co.*, 100 Wn.2d 581, 597, 675 P.2d 193 (1983);  
2 *Washington State Physicians Ins. Exch. & Ass'n v. Fisons Corp.*, 122 Wn.2d 299, 334-35, 858  
3 P.2d 1054 (1993). In addition, a multiplier can be applied to the lodestar amount to account for a  
4 contingency risk factor and the quality of the legal work performed. *Chuong Van Pham v. City*  
5 *of Seattle*, 159 Wn.2d 527, 541, 151 P.3d 976 (2007); *Bowers*, 100 Wn.2d at 598; *Washington*  
6 *State Physicians Ins. Exch.*, 122 Wn.2d at 335.

7 8. Although there is in some cases a requirement to segregate and exclude time spent  
8 on claims for which fees are not recoverable, that requirement does not apply if the plaintiff's  
9 claims involve a common core of facts or are based on related legal theories and it is not possible  
10 to segregate the time spent on the various claims. *Hensley v. Eckerhart*, 461 U.S. 424, 435, 103  
11 S. Ct. 1933 (1983); *Miller*, 180 Wn. App. at 823-24; *Fiore v. PPG Indus., Inc.*, 169 Wn. App.  
12 325, 352, 279 P.3d 972 (2012); *Bloor v. Fritz*, 143 Wn. App. 718, 747, 180 P.3d 805 (2008);  
13 *Mehelenbacher v. DeMont*, 103 Wn. App. 240, 247, 11 P.3d 871 (2000). This exception to the  
14 segregation requirement applies here based on the findings set forth in Paragraph 4 above.

15 9. Applying a 2.0 multiplier to the reasonable lodestar amount as found in Paragraph 3  
16 above, the total fee award to Plaintiffs is \$3,933,305. That amount is reasonable given the facts  
17 and circumstances of this case, including the aggressive manner in which Continental defended  
18 itself against Plaintiffs' claims.

19 10. Plaintiffs shall file an amended judgment in accordance with this Order.

20  
21 ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2015

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24 \_\_\_\_\_  
25 Honorable Marsha J. Pechman  
26

1 Presented by:

2 **PETERSON | WAMPOLD**  
3 **ROSATO | LUNA | KNOPP**

4 /s/ Ann H. Rosato

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on the date shown below I electronically filed the foregoing  
3 document with the Clerk of the Court using the CM/ECF system which will send notification of  
4 such filing to all counsel of record.

5 **Dated:** March 6, 2015.

6 **PETERSON | WAMPOLD**  
7 **ROSATO | LUNA | KNOPP**

8 /s/ Dana Vizzare

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